



CITY OF NEWTON, MASSACHUSETTS

Department of Planning and Development

Michael J. Kruse, Director

Telephone

(617)-796-1120

Telefax

(617) 796-1142

E-mail

mkruse@ci.newton.ma.us

David B. Cohen
Mayor

Public Hearing Date:	June 27, 2005
Zoning and Planning Action Date:	To be determined
Board of Aldermen Action Date:	Sept. 6, 2005
90-Day Expiration Date:	Sept. 25, 2005

TO: Board of Aldermen
Planning and Development Board

FROM: Michael Kruse, Director of Planning and Development
Juris Alksnitis, Chief Zoning Code Official

SUBJECT: PETITION #392-04(8) of HIS HONOR THE MAYOR requesting that the 2.26 acres of land to be purchased from the Angino family by the City using Community Preservation funds at 303 Nahanton Street be rezoned from a SINGLE RESIDENCE 1 DISTRICT to a PUBLIC USE DISTRICT.

CC: Mayor David B. Cohen
Philip B. Herr, Chair, Comprehensive Planning Advisory Committee

RECOMMENDATION: *Approval*

The purpose of this memorandum is to provide the Board of Aldermen, Planning and Development Board, and the public with technical information and planning analysis which may be useful in the decision making process of the Boards. The Planning Department's intention is to provide a balanced view of the issues with the information it has at the time of the public hearing. There may be other information presented at or after the public hearing that the Zoning and Planning Committee of the Board of Aldermen will consider its discussion at a subsequent Working Session.

I. BACKGROUND

In the Spring of 2004, the Newton Conservators requested Community Preservation Act (CPA) funding for the purchase of Angino Farm (303 Nahanton Street), a 2.26 acre parcel that is located on the corner of Winchester and Nahanton Streets. After several refinements and revisions to the proposal, the Community Preservation Committee recommended that the Board of Aldermen approve the funding for purchase of the farm by the City. In December 2005, the Board of Aldermen approved a total of \$2,610,000 of CPA funds (including \$1.5m loan funds) for the purchase of Angino Farm, associated closing costs, and phase I building renovations. The City, with approval from the State's Secretary of Environmental Affairs, placed a conservation restriction on the property that is held by the Newton Conservators. On May 24, 2005, the City finalized its purchase of the Angino Farm. Earlier in May, the Board of Aldermen enacted a new

ordinance to establish the Newton Farm Commission, which will manage the operation of the Farm. Commission members are expected to be appointed over the next few months while operation of the community farm is expected to begin in the Spring of 2006. This project reflects the successful achievement of a long standing goal to acquire Angino Farm, as articulated in the *City of Newton Recreation and Open Space Plan, 2003-07*.

II. SIGNIFICANT ISSUES FOR CONSIDERATION

The primary issue for the Board of Aldermen to consider is whether and how the rezoning would affect this section of Newton from a public use -- land use perspective compared to current zoning.

III. ELEMENTS OF THE PETITION

This petition seeks to rezone one lot containing approximately 98,406 sq. ft. (2.26 acres) currently zoned Single Residence 1 to the Public Use Zone. The petitioned area includes a field, house, barn, and outbuilding known as Angino Farm, located on the easterly side of Winchester Street at the intersection with Nahanton Street. While the subject lot is part of an extended SR-1 Zone, it is immediately abutted to the east and north by a Multi-Residence 1 Zone containing the “Ledgebrook Condominiums” development. Across Winchester Street to the west is the Gosman Jewish Community Campus zoned largely SR-1, and also Multi Residence-3. The SR-1 Zone continues to the south across Nahanton Street, and is soon bordered by the Limited Manufacturing Zone containing the Wells Avenue light industrial and office area. The Charles River Country Club owns large SR-1 zoned tracts of land nearby to the east and north, while Nahanton Park (Parks & Recreation Department), Helen Heyn Riverway (Conservation Commission), and the MDC Charles River reservation, all zoned Public Use are located along the Charles River nearby to the west.

The rezoning is being requested as a measure to bring the lot into a zone consistent with the public ownership and anticipated public use of this parcel. ***Also see the enclosed maps titled: Existing Zoning, Proposed Zoning, and Existing Land Use.***

IV. ANALYSIS

A. Zoning History

The first zoning references to the area under review appear in the City’s 1922 Zoning Map, which indicated that the subject area was zoned “Single Residence” from the time of adoption of zoning by the City. In 1940, the lot was designated Single Residence A, which remained unchanged on the 1951 atlas. Subsequently, while adjacent property was rezoned Multi-Residence 1 in 1985, the subject parcel remained SR-A. In 1987, zoning terminology was updated and “Single Residence A” zones were renamed as Single Residence 1 zones. While the zoning category applicable to this property has remained constant since 1922, the zoning districts have evolved over time and have received the current designations.

B. Zoning Classification

The City has since 1987 maintained a policy that provides that publicly owned property and public purpose uses belong in the zoning category known as “Public Use.” As a result, many public properties previously considered “unzoned” were placed in the Public Use District. This zoning classification is more advantageous from a municipal perspective in that Section 30-6

does not require “up front” compliance with dimensional controls or parking requirements. However, as noted below, certain non-zoning site plan review and approval procedures may apply pursuant to Section 5-58, which states in part:

“It shall be the policy of the City to apply similar standards of planning and control of density and environmental impact, when the City’s public buildings and facilities are constructed or modified, as the City applies under chapter 30, Zoning, of the Revised Ordinances...”

C. Development Implications

As currently zoned, the site may be subdivided into 3 lots for single family homes. The proposed rezoning of the lot to the Public Use Zone will restrict future use to public purposes. Section 30-6, *Allowed Uses for Public Use Districts* paragraphs (a)-(k) lists the following allowed uses: public streets and highways, commons, public gardens, parks and conservation areas, playgrounds, public parking lots, railroads, waterworks reservations, public purposes, publicly-owned cemeteries, and other uses similar or accessory to the preceding uses. While a municipal community farm is not listed, it is reasonable to consider such a farm as a “public purpose,” given the public ownership and anticipated public farming use of this property. However, the Board of Aldermen may also wish to consider amending Section 30-6 at a future date by explicitly adding a community farm thereby updating and clarifying the allowed uses.

Under Public Use zoning, future development of the parcel will be subject to Section 5-58 of the Revised Newton Ordinances which establishes a procedure including review by the Department of Planning and Development, the Design Review Committee, and site plan approval by the Board of Aldermen consistent with Section 30-23, when contemplating new construction or substantial change in usage. Section 5-58 procedures are triggered when there is a substantial change due to new construction or modifications which also involve change in vehicular access, off-street parking requirements, site grading, drainage, landscape features, or service areas. These requirements are outlined in Section 5-58(a), and include site plan approval by the Board of Aldermen pursuant to Section 30-23.

In addition, the Board of Aldermen recently adopted Board Order 393-04(4) (Ordinance X-148, May 2, 2005) establishing the Newton Angino Community Farm together with the Newton Farm Commission (Farm Commission). As noted previously, the Farm Commission is charged with the responsibility of managing this property consistent with the requirements set forth in BO #393-04(4), attached hereto as ***Attachment A: Newton Angino Community Farm***.

D. Accessory Uses

Existing language in Section 30-6(k) provides a licensing mechanism for the temporary use of property zoned Public Use, for the purposes of *“farmers’ markets, fairs, festivals, and other like uses, either profit or nonprofit in nature, upon request by citizens’ groups or individuals...”* At the present time, a temporary license for the above may be issued by the Board of Aldermen, unless the property is under the control of a designated City agency, such as the Parks and Recreation Department, Conservation Commission, or School Department. As the subject property will be the responsibility of the Farm Commission, it is suggested the Farm Commission be authorized to undertake such activities without the need for a license from the Board of Aldermen. In addition, as the agency of jurisdiction, the Farm Commission should be empowered to issue temporary licenses to others seeking to undertake these types of activities in a manner similar to the above-mentioned agencies. This may be achieved by developing a

suitable amendment to the language in Section 30-6(k), in consultation with the Law Department.

V. RECOMMENDATION

The proposed rezoning of the subject lot from SR-1 to Public Use is consistent with long standing City policy of classifying publicly owned property in this category. As discussed above, this affords municipal property more flexibility, while maintaining standards and procedures largely similar to those provided in Section 30. Substantial change in use or new construction trigger Section 5-58(a), which involves rigorous review procedures as well as site plan approval pursuant to Section 30-23. In addition, the Farm Commission will be responsible for managing this property consistent with defined public purposes as set out in BO #393-04(4).

The Planning and Development Department recommends approval of the proposed rezoning of this newly acquired public property from SR-1 to Public Use.

In addition, the Planning and Development Department suggests that Section 30-6 be amended in the near future to:

- Add a community farm to the list of allowed uses.
- Enable the Farm Commission to undertake fairs, markets, and similar activities under its own authority as the agency of jurisdiction for this property, and to issue temporary licenses to others for such activities, consistent with the pattern established in Section 30-6(k).

With your agreement, the Planning Department would be pleased to work with the Law Department in bringing forward suitable amendments for consideration by the Board of Aldermen.

ATTACHMENTS

Attachment A - Newton Angino Community Farm.